



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.21059 of 2021

M/s. Vijay Mahiendras Impex Sharvesh (P) Limited
Rep by its Authorised Signatory,
Mr. CS Senthamil Arasu
Having Office at No 10/3, Anna Street,
Thirumalai Nagar, PN Road, Tirupur-641 602.

...Petitioner

-Vs-

The Sub-Registrar,
Uthukuli Sub-Registration Office,
Perundurai Taluk,
Ichipalayam Village,
Erode.

...Respondent

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, directing the Respondent to register the Certified Copy of Decree dated 23.01.2020 passed in the suit in O.S No. 181 of 2018 on the file of the Hon'ble District Munsif Court, Avinashi on payment of registration charges alone without insisting on the period of limitation under section 23 of the Registration Act 1908.

For Petitioner :: M/s.Revathi Manivannan
For Respondent :: Mr.Yogesh Kannadasan
(Government Advocate)

O R D E R

The relief sought for in this writ petition is for a direction to the Respondent to register the Certified Copy of Decree dated 23.01.2020 passed in the suit in O.S No. 181 of 2018 on the file of the Hon'ble District Munsif Court, Avinashi on payment of registration charges alone without insisting on the period of limitation under section 23 of the Registration Act 1908 and pass orders accordingly.



2. The learned counsel for the petitioner would submit that a Partnership Firm in the name and style of "Mahiendra Impex" was constituted by Mr. S.P. Subramaniam, Mr. P Duraisamy, Mr. S.P Shanmuga Sundar and Mr. P. Ramasamy vide Deed of Partnership dated 06.11.1997. During the course of business, the said partners have purchased the properties in their respective names and brought them into the Firm from time to time. These properties have been treated in the books of accounts of the Firm as an asset of the Partnership and the value thereof given credit appropriately to the partners in the accounts of the firm. Thereafter, the Partnership Firm has been reconstituted several times on retirement and inclusion of new partners into the firm. Thereafter, the name of the Firm was also changed to "Vijay Mahiendraa Impex Sharvesh" vide Deed of Reconstitution dated 05.05.2016.

3. It has been further submitted that later in the year, 2018 the Partnership Firm "Vijay Mahiendraa Impex Sharvesh" has been converted into Company by incorporation under Part-1 of Chapter XXI of the Companies Act, 2013 under the name and style of "Vijay Mahiendraa Impex Sharvesh Private Limited", vide certificate of Incorporation dated 01.01.2018 issued by the Registrar of companies. Coimbatore. The properties belonging to the Firm has been drawn up and filed with the Registrar of Companies Accordingly, the properties has been vested absolutely with the Petitioner Company The Petitioner is also in possession and enjoyment of the properties ever since its incorporation.

4. The learned counsel further submitted that after incorporation of the Company and after having subscribed to the Memorandum and Articles of Association of the Company, one of the Partners of the Firm namely Mr.S.P Shanmuga Sundar, who owned Share Capital in the Firm "Vijay Mahiendraa Impex Sharvesh" has started claiming ownership of the Properties of the Petitioner Company. He also started spreading rumours that, the Petitioner Company's properties are his absolute properties. Under such circumstances, the Petitioner has filed a suit in O.S.No 181 of 2018 before the Hon'ble District Munsif Court, Avinashi praying for to declare that the act of Defendants 1 to 3 in bringing the Schedule Property into the Firm "Vijay Mahiendraa Impex Sharvesh" and the subsequent conversion of the Firm into the Plaintiff Company, is valid and binding on the Defendants. The same was allowed by the Hon'ble District Munsif Court, Avinashi by order dated 23.01.2024 and decreed the suit as prayed for. In the meanwhile, there was a lock down owing to Covid-19 pandemic, therefore the Petitioner had applied for the order copy 30.07.2021 and the copy of the same was made ready on



18.08.2021. Therefore petitioner could not be able to present the Decree with the Respondent for registration within 3 months from the date of Decree and Judgement. While so, in the month of August 2021, the Petitioner had approached the Respondent to register aforesaid the Original Decree. However, the Respondent has refused to register the certified Copy of the Decree passed in O.S. No 181 of 2018 on the file of the Hon'ble District Munsif Court, Avinashi stating that the documents were not presented within three months of the Decree and Judgement. The Respondent without considering the lock down restrictions implemented by the Government on the rise of Covid-19 virus in the State, has refused to register the Decree passed by the Hon ble Court. Hence, the petitioner is left with no other option except to approach this Court by invoking its jurisdiction under Article 226 of Constitution of India directing the respondent to register the same.

5. The learned Government Advocate for the respondent would submit that since during the period of pandemic, the Judgment and Decree dated 23.01.2020 was passed by the Trial Court as well there is no limitation period to register the Court order in the Registering Office as per the observations made by the Madurai Bench of Madras High Court in the similar case, in W P. (MD). Nos.8091, 8093 & 9446 of 2020 dated 26.11.2020 and in W.P. (MD) No.16863 of 2020 dated 25.06.2021 and hence the respondent may be directed to register the certified copy of the Decree dated 23.01.2020 in O.S. No.181 of 2018 on the file of the Hon'ble District Munsif Court, Avinashi on payment of registration charges without insisting on the period of limitation under Section 23 of the Registration Act, 1908, within a stipulated period as fixed by this Court after verifying the documents relied by the petitioner herein.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent as well as perused the material available on records.

7. Having considered the facts and circumstances of the case and submissions of the learned counsel on either side, this Court directs the respondent herein to register the Certified Copy of Decree dated 23.01.2020 passed in the suit in O.S No. 181 of 2018 on the file of the Hon'ble District Munsif Court, Avinashi on payment of registration charges alone without insisting on the period of limitation under section 23 of the Registration Act 1908 in accordance with law within a period of four weeks from the date of receipt of copy of this order.



8. With the aforesaid direction and observation, the Writ petition is disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

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s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

Lbm

To:

1. The Sub-Registrar,
Uthukuli Sub-Registration Office,
Perundurai Taluk,
Ichipalayam Village,
Erode.

2. The District Munsif Court, Avinashi

+1 CC to The Government Pleader sr 51604.

W.P. No.21059 of 2021

VBM(CO)
SP(17/12/2021)